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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,514	08/14/2006	Norbert Jacobi	785-012380-US (PAR)	2400

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EXAMINER

ROSENBAUM, MARK

ART UNIT	PAPER NUMBER
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3725

MAIL DATE	DELIVERY MODE
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02/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,514	Applicant(s) JACOBI ET AL.	
	Examiner Mark Rosenbaum	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 10, 11 and 23-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>12/23/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

Indication of allowable subject matter has been withdrawn in view of the newly found art.

Response to Arguments

Applicant's arguments with respect to claims rejected below have been considered but are moot in view of the new ground(s) of rejection.

Election/Restrictions

Claims 10,11,23-26 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/10/08.

Claim Rejections - 35 USC § 112

Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, is the apparatus prior to the comprising clause in line 2 being positively claimed? There is no proper antecedent basis for 'the eccentric retaining bolt' in line 5.

Claim Rejections - 35 USC § 102

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by the German '122 patent. Figure 2 shows a cutter having metal disk 15 encapsulated in plastic torus/envelope 18 with blades 17 attached to the disk.

Claim Rejections - 35 USC § 103

Claims 1,5,6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaller in view of German '046. Schaller discloses the basic apparatus except for the use of a plastic envelop/covering. This might result in problems such as material sticking to the disk. German '046 solves this problem by disclosing similar apparatus including the use of a plastic coating over a metallic disk. In order to prevent material from sticking to the desk and related problems, it would have been obvious for one of ordinary skill in the art to modify Schaller by providing a plastic covering on the disk, taught to be desirable by German '046.

Claims 2,3,7-9,12-15,16-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaller in view of German '046 as applied to claim 1 above, and further in view of Meister et al. Schaller does not use an eccentric bolt to fasten the cutters to the disk which may result in complicated assembly/disassembly features. Meister et al solves this problem by disclosing similar apparatus including the use of eccentric bolts to locate the knives. In order to provide for easier assembly/disassembly, it would have been obvious for one of ordinary skill in the art to modify Schaller by using an eccentric bolt to located the cutters, taught to be desirable by Meister et al. The remaining limitations of these claims would then have been obvious design choices once the basic apparatus was known. For example, the use of seals is well known in the mechanical arts and of no patentable merit.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schaller in view of German '046 as applied to claim 1 above, and further in view of German '652.

Art Unit: 3725

The basic combination does not use magnets to help locate the knives. German '652 solves this problem by disclosing similar apparatus including the use of magnets to locate the knives. In order to properly locate the knives, it would have been obvious for one of ordinary skill in the art to modify Schaller by providing magnet on the disk, taught to be desirable by German '652.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is 571-272-4523. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dana Ross can be reached on 571-272-4480. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark Rosenbaum
Primary Examiner
Art Unit 3725

Application/Control Number: 10/552,514
Art Unit: 3725

Page 5

/Mark Rosenbaum/
Primary Examiner, Art Unit 3725